

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

PAUL D. BOYAN,

Plaintiff,

vs.

SOCIAL SECURITY
ADMINISTRATION, et al.,

Defendants.

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8:06cv692

MEMORANDUM AND ORDER

The plaintiff, Paul D. Boyan, has filed a complaint seeking review of a final decision by the Commissioner of Social Security denying the plaintiff's application for benefits under the Social Security Act, as amended. Also before the court is the plaintiff's Application to Proceed in Forma Pauperis ("IFP") (filing no. 2). The plaintiff is permitted to proceed IFP.

Because the plaintiff is proceeding IFP, he is entitled to service of process by the U.S. Marshal, without cost, after the plaintiff completes the appropriate forms.

THEREFORE, IT IS ORDERED:

1. Filing no. 2, the plaintiff's Application to Proceed in Forma Pauperis, is granted.
2. The Clerk of Court shall send a copy of this Memorandum and Order together with three summons forms and three USM-285 forms to the plaintiff, to be completed for service of process on the United States.
3. The plaintiff shall, as soon as possible, complete the forms (see attached Notice for persons to be served) and send the completed summons and 285 forms back to the Clerk of Court. In the absence of those forms, service of process cannot occur.
4. Upon receipt of the completed summons and 285 forms, the Clerk shall sign the summons forms and forward them, together with copies of the complaint, to the U.S. Marshal for service on the United States. The court will copy the complaint for the Marshal, and the plaintiff does not have to do so.
5. The Marshal shall serve the United States, without payment of costs or fees. Service shall be effected pursuant to Fed. R. Civ. P. 4(i) regarding "[s]erving the United States, Its Agencies, Corporations, Officers, or Employees." Service may be by certified mail in the discretion of the Marshal.

6. Fed. R. Civ. P. 4 requires service of the complaint on a defendant within 120 days of filing the complaint. However, because in this Memorandum and Order the plaintiff is informed for the first time of these requirements, the plaintiff is granted, on the court's own motion, an extension of time until 120 days from the date of this Memorandum and Order to complete service of process.

7. The Clerk of Court shall bring this case to the attention of the court if service of process has not been obtained on the defendant by 120 days from the date of this Memorandum and Order.

8. After an appearance has been filed by the defendant, the plaintiff shall serve on the defendant or, if the appearance has been entered by counsel, upon such counsel, a copy of every future pleading, letter or other document submitted to the court. The plaintiff shall include with each document submitted to the court for a "Certificate of Service" stating the date a true and correct copy of such document was mailed to the defendant's attorney.

9. The defendant shall respond to the plaintiff's claims by filing an answer or motion within the time prescribed by Fed. R. Civ. P. 12(a)(3).

10. The plaintiff shall keep the court informed of the plaintiff's current address at all times while this case is pending. All pleadings and motions filed with the court must bear a party's signature.

11. The parties are bound by the Federal Rules of Civil Procedure and by the Local Rules of this court in the prosecution of this case. The federal rules are available at any law library, and the local rules are available at the office of the Clerk of Court, and also on the court's web site at www.ned.uscourts.gov.

DATED this 7th day of November, 2006.

BY THE COURT:

s/ Joseph F. Bataillon
JOSEPH F. BATAILLON
Chief District Judge

Notice regarding Federal Rule of Civil Procedure 4(i)

Federal Rule of Civil Procedure 4(i) regarding “[s]erving the United States, Its Agencies, Corporations, Officers, or Employees,” states:

(1) Service upon the United States shall be effected

(A) by delivering a copy of the summons and of the complaint to the **United States attorney for the district in which the action is brought** or to an assistant United States attorney or clerical employee designated by the United States attorney in a writing filed with the clerk of the court or by sending a copy of the summons and of the complaint by registered or certified mail addressed to the civil process clerk at the office of the United States attorney

U.S. Attorney for the District of Nebraska

1620 Dodge Street, Suite 1400
Omaha, NE 68103

and

(B) by also sending a copy of the summons and of the complaint by registered or certified mail to the **Attorney General of the United States** at Washington, District of Columbia,

U.S. Attorney General

Main Justice Building
10th & Constitution Ave., N.W.
Washington, D.C. 20530

and

(C) in any action attacking the validity of an order of an officer or agency of the United States not made a party, by also sending a copy of the summons and of the complaint by registered or certified mail to **the officer or agency**.

Commissioner of Social Security

6401 Security Blvd.
Baltimore, MD 21235.